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8 Attorneys for Debtor

9 UNITED STATES BANKRUPTCY COURT  
10 EASTERN DISTRICT OF WASHINGTON

11 In Re:

No. 17-03545-FPC

12 ROGER A. STADTMUELLER,

13 Debtor.

14 APPLICATION FOR ORDER  
15 APPROVING EMPLOYMENT OF  
16 ATTORNEY FOR CRIMINAL  
17 MATTER FOR DEBTOR (LF 2014)  
18 NUNC PRO TUNC

19 The undersigned Debtor in possession ("Debtor") applies to the Court for  
20 an Order approving the employment of Mark E. Vovos, to prepare and complete  
21 any necessary work with regard to a civil subpoena originating in a criminal case  
22 in the United States District Court, Eastern District of Washington.

23 For purposes of this application and verification and the disclosures  
24 contained herein, the term APPOINTEE shall include the named appointee, and  
25 if the named appointee is an attorney partnership or corporation, or is an attorney  
26 employed as a partner, member, or regular associate of a partnership or  
27 corporation, the named appointee and each member, partner or regular associate  
28 of such partnership or corporation.

29 Applicant and Appointee in making and verifying this application  
30 understand that appointee is a fiduciary to the estate and is obligated to fully and

1 candidly disclose all material facts relating to the employment and is obligated to  
2 timely disclose subsequently discovered material facts.

3 Your Applicant makes the following representations under penalty of  
4 perjury and subject to 18 U.S.C. § 152:

5 1. That the specific facts showing the necessity for the employment  
6 are: The Debtor has been complying with the terms of his release as part of his  
7 plea agreement. He is working with the IRS in this bankruptcy proceeding.  
8 Nevertheless, the U.S. Attorney's Office has filed a "civil" subpoena under the  
9 Debtor's resolved criminal case number to appear for a deposition. Based on the  
10 nature of the deposition, the Debtor needs an experienced criminal attorney for  
11 assistance and legal advice.

12 2. That the reason for the selection of the above named appointee is:  
13 The appointee has long standing experience in criminal law and he has an  
14 excellent reputation in the community.

15 3. That the professional services to be rendered are: Representation on  
16 behalf of the Debtor for responding to the subpoena and deposition related to the  
17 criminal case in the United States District Court, Eastern District of Washington  
18 currently set for October 19, 2018. See Subpoena and Notice of Deposition  
19 attached hereto as Exhibit "A".

20 4. That Appointee is qualified to provide the services to be rendered  
21 based on the following: Mark E. Vovos was admitted to the Washington state  
22 bar on September 20, 1968, and is an experienced criminal attorney with  
23 extensive experience in Federal Court.

24 5. That any proposed arrangement as to compensation including hourly  
25 rates or flat fees if applicable, is as follows, but that approval of that arrangement  
26 and any payment or allowance of compensation for services rendered or  
27



1 reimbursement of expenses will be in accordance with 11 U.S.C. §§ 329 and 330  
2 and FRBP 2016: Debtor's Bankruptcy Estate will be charged fees at the rate of  
3 \$275.00 per hour.

4         6. That Appointee is not a relative of the Bankruptcy Judge assigned to  
5 this case.

6         7. That Appointee does not hold or represent an interest adverse to the  
7 estate, nor is Appointee an interested person. Appointee has not served as  
8 examiner in the case.

9         8. That to the best of your Applicant's knowledge, all of the  
10 Appointee's connections with the debtor, creditors, any other party in interest,  
11 their respective attorneys and accountants, the United States Trustee, any person  
12 employed in the office of the United States Trustee or the Bankruptcy Judge  
13 assigned the case are as follows:

14             A. That Appointee is not a creditor as defined by 11 U.S.C. §  
15 101(10).

16             B. That Appointee is not indebted to the Debtor or to the estate.

17             C. That Appointee has not represented an entity that is classified  
18 as a creditor as defined by 11 U.S.C. § 101(10).

19             D. That Appointee has not been an equity security holder as  
20 defined in 11 U.S.C. § 101(17).

21             E. That Appointee has not represented an equity security holder  
22 as defined by 11 U.S.C. §C 101(17).

23             F. That Appointee has not been an insider as defined by 11  
24 U.S.C. § 101(31).

25             G. That Appointee has not represented an insider as defined by  
26 11 U.S.C. § 101(31), except for prior representation related to release  
27 restrictions.  
28  
29  
30

1 H. There are no conflicts of interest with regard to this  
2 representation.

3 I. That Appointee has not participated in transactions with the  
4 Debtor, including actions under 11 U.S.C. § 329(a) and FRBP 2017(a), except  
5 for prior representation related to release restrictions.  
6

7 J. That Appointee has not received or been promised  
8 compensation from Debtor or some other entity for services rendered in this case.

9 K. That Appointee has caused to be conducted an internal  
10 conflicts check in regard to representation of other clients as required by any  
11 code or rules of professional conduct, **and found that no conflict exists.**  
12

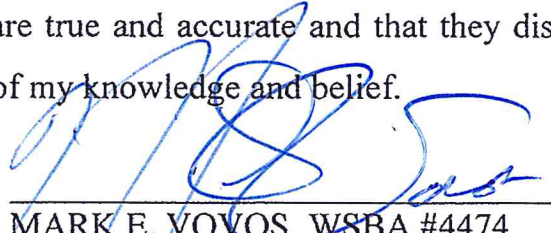
13 DATED this 10<sup>th</sup> day of October, 2018.  
14

15 WINSTON & CASHATT, LAWYERS

16  
17 */s/ Timothy R. Fischer*

18 TIMOTHY R. FISCHER, WSBA #40075  
19 Attorneys for Debtor  
20  
21

22 I, Mark E. Vovos, the undersigned Appointee, do hereby state under  
23 penalty of perjury of the laws of the United States that I have read the above  
24 representations and verify that they are true and accurate and that they disclose  
25 all material facts required to the best of my knowledge and belief.  
26

27  
28   
29 MARK E. VOVOS, WSBA #4474  
30 1309 W Dean Ave Ste 100  
Spokane, WA 99201  
Telephone: (509) 326-5220  
Facsimile: (509) 326-5226

# Exhibit “A”

UNITED STATES DISTRICT COURT

for the  
Eastern District of Washington

United State of America	)	
Plaintiff	)	
v.	)	Civil Action No. 2:15-CR-00059-001
ROGER STADTMUELLER	)	
Defendant	)	

SUBPOENA TO TESTIFY AT A DEPOSITION IN A CIVIL ACTION

To: ROGER STADTMUELLER

(Name of person to whom this subpoena is directed)

☒ **Testimony:** YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Place: U.S. Attorney's Office, 920 W. Riverside Ave., Suite 340, Spokane, WA 99201	Date and Time: 09/25/2018 10:00 am
--	------------------------------------

The deposition will be recorded by this method: Stenographically by certified court reporter & notary public

☒ **Production:** You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and must permit inspection, copying, testing, or sampling of the material: Attached as Exhibit A.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 08/28/2018

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party)

United States of America

, who issues or requests this subpoena, are:

Brian M. Donovan, U.S.A.O., P.O. Box 1494, Spokane, WA 99210-1494; brian.donovan@usdoj.gov; 509-835-6316

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).



*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

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**Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**

**(c) Place of Compliance.**

(1) *For a Trial, Hearing, or Deposition.* A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
  - (i) is a party or a party's officer; or
  - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) *For Other Discovery.* A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

**(d) Protecting a Person Subject to a Subpoena; Enforcement.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

**(e) Duties in Responding to a Subpoena.**

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) *Contempt.*

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

For access to subpoena materials, see Fed. R. Civ. P. 45(a) Committee Note (2013).



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Assistant United States Attorney  
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Spokane, Washington 99210-1494  
Telephone: (509) 353-2767  
Counsel for the United States

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROGER A. STADTMUELLER,  
Defendant,

No. 2:15-CR-00059-001

SUBPOENA TO ROGER  
STADTMUELLER

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Exhibit A to Subpoena to Roger Stadtmueller

1. Any and all records, statements, information, or documents in your possession dated August 2017 to present relating to any and all assets, including but not limited to wages, money, monetary gifts, personal or real property, gifts of personal property worth more than \$500 in value, inheritances, personal loans, or other assets, received by you, owned by you, in which you have a total or partial interest, to which you have any rights, and/or over which you have any control.

2. Any and all records, statements, information, or documents in your possession dated relating to any and all businesses in for which you are employed, in which you have interest, over which you exercise control, directly or indirectly, and/or from which you receive income, wages, or other consideration.

3. Any and all records, statements, cash flow statements, information, or documents in your possession relating to any and all accounts, including but not limited to checking and savings accounts, investment accounts, stock brokerage accounts, or retirement accounts, held by you or companies in your control, directly or indirectly, from August, 2017 to present.

1 JOSEPH H. HARRINGTON  
United States Attorney  
2 Eastern District of Washington  
Brian M. Donovan  
3 Assistant United States Attorney  
Post Office Box 1494  
4 Spokane, WA 99210-1494  
Telephone: (509) 353-2767  
5 Fax: (509) 835-6397  
6

7 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON  
8

9 UNITED STATES OF AMERICA,

Case No.: 2:15-CR-00059-001

10 Plaintiffs,

NOTICE OF DEPOSITION  
OF ROGER STADTMUELLER

11 vs.  
12

13 ROGER STADTMUELLER,

14 Defendant.  
15

16 TO: ROGER STADTMUELLER

17 PLEASE TAKE NOTICE that the United States of America will take the oral  
18 deposition of Roger Stadtmueller, on September 25, 2018, at 10:00 a.m., at U.S.  
19 Attorney's Office, 920 W. Riverside Ave., Suite 340, Spokane, Washington 99201, by  
20 a court reporter and Notary Public. The oral examination shall continue from day-to-  
21 day until completed. You are to remain in attendance upon the undersigned's request  
22 until your deposition is completed or until discharged. If this date and time doesn't  
23 work for you, please contact this office immediately to reschedule the deposition.  
24

25 The deposition is being taken pursuant to the Federal Rules of Civil Procedure,  
26 including but not limited to Rules 26, 30, 34 and 45, and this deposition may be used in  
27 any manner authorized by the Federal Rules of Civil Procedure and/or the Federal  
28 Rules of Evidence.

NOTICE OF DEPOSITION - 1

1 Failure to appear at the time and place of designated, and/or to respond to this  
2 deposition notice may result in the imposition of reasonable costs and attorney's fees  
3 under the Federal Rules of Civil Procedure and/or other applicable federal law.

4 Dated this 28th day of August, 2018.

5 *JOSEPH H. HARRINGTON*  
6 United States Attorney

7 *s/ Brian M. Donovan*  
8 Brian M. Donovan  
9 Assistant United States Attorney

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18  
19 **CERTIFICATE OF SERVICE**

20 I hereby certify that on August 28, 2018, I mailed the foregoing by United  
21 States Postal Service to the following non-CM/ECF participants:

22  
23 Roger Stadtmueller  
24 3611 W. Strong Road  
25 Spokane, WA 99208

26 *s/ Brian M. Donovan*  
27 Brian M. Donovan  
28 Assistant United States Attorney